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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/027,235	12/20/2001	Mark S. Franke	KCC-16,491	9097

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EXAMINER

STEPHENS, JACQUELINE F

ART UNIT PAPER NUMBER

3761

DATE MAILED: 02/26/2004

11

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/027,235

Applicant(s)

FRANKE ET AL.

Examiner

Jacqueline F Stephens

Art Unit

3761

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-52 is/are pending in the application.
- 4a) Of the above claim(s) 3-6, 15, 16 and 18-33 is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1, 2, 7-14, 17 and 34-52 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 26 March 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☒ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 3,6,7.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: ____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 17, 44, and 45 are rejected under 35 U.S.C. 102(b) as being anticipated by Heran et al. USPN 4646362.

Heran discloses a disposable garment **10** comprising:

a front waist region, a back waist region, and a crotch region extending between the waist regions,

a first side panel **11** extending from the front waist region;

a second side panel **12** extending from the back waist region;

a concealed side seam **13** connecting an edge portion of the first side panel to an edge portion of the second side panel.

As to claim 44, Heran discloses the concealed side seam 13 has a width of less than about 30 mm (col. 5, lines 60-63).

As to claim 45, Heran discloses the concealed side seam 13 has a width of about 3/16" (4.75 mm), which is included in the range of about 2mm to about 8mm (col. 5, lines 60-63).

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

5. Claims 1, 2, 7-14, 17, and 34-52 are rejected under 35 U.S.C. 103(a) as being unpatentable over Strohbeen et al. USPN 4610681 in view of Han et al. WO 01/79602.

As to claim 1, Strohbeen discloses a disposable garment **10** comprising:

a front waist region, back waist region, and a crotch region extending between the waist regions (Figure 1),

a first side panel **11** extending from the front waist region;

a second side panel **12** extending from the back waist region;

a side seam **13** connecting an edge portion of the first side panel to an edge portion of the second side panel (Figure 1).

Strohbeen does not disclose the first side panel is offset with respect to the second side panel and the side seams comprise a primary and secondary bond. Strohbeen discloses it is desirable to create a disposable garment having the appearance of underwear (col. 2, lines 31-34). For this reason, Strohbeen created a narrower or discrete exterior seam. However, the seam of Strohbeen extends outwardly from the garment and is visible (Figures 1 and 2). Han discloses a side seam connecting an edge portion **12** of the first side panel **11** to an edge portion of the second panel **19**, the first side panel offset with respect to the second side panel (Han Figures 8-9) for the benefit of providing a seam where the edge of the garment are covered by the fold and provide a garment, which is aesthetically pleasing because the seam does not extend outwardly from the garment (Han page 8, lines 1-3). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the seam of Strohbeen to have offset panels and a fold for the benefits disclosed in Han.

As to claim 2 Strohbeen/Han discloses the panels are connected on their inner surfaces and a first seam (primary bond) is sewn, thus connecting an inner surface of the first side panel to an inner surface of the second side panel (Han page 8, lines 15-24; and Figure 9, where inner surfaces (sueded side) of panels are connected).

As to claim 7, Strohbeen/Han discloses the width of the fold (which corresponds to the width of the seam) is less than about 30 mm (Han page 8, lines 8-14).

As to claim 8, Strohbeen/Han discloses the width of the fold (which corresponds to the width of the seam) is about 5mm, which is included in the range of about 2mm to about 8mm (Han page 8, lines 8-14).

As to claims 9 and 11, Strohbeen/Han discloses the bonds have a width of 1/16-3/16" (1.58 - 4.76mm), which is included in the range of less than about 30 mm (Strohbeen col. 6, lines 25-29).

As to claims 10 and 12, Strohbeen/Han discloses the bonds have a width of 1/16-3/16" (1.58 - 4.76mm), which is included in the range of about 2mm to about 8mm (Strohbeen col. 6, lines 25-29).

As to claim 13, Strohbeen discloses a disposable garment **10** comprising a chassis comprising a front side panel **11** and a back side panel **12**, and defining a waist opening **15**, and first and second leg openings **14** (Figure 1);

a first side seam **13** extending from the waist opening to the first leg opening and connecting the front side panel and the back side panel;

a second side seam **13** extending from the waist opening to the second leg opening and connecting the front side panel and the back side panel (Figure 1).

Strohbeen does not disclose the first side panel is offset with respect to the second side panel and the side seams comprise a primary and secondary bond. Strohbeen discloses it is desirable to create a disposable garment having the appearance of underwear (col. 2, lines 31-34). For this reason, Strohbeen created a narrower or discrete exterior seam. However, the seam of Strohbeen extends outwardly from the garment and is visible (Figures 1 and 2). Han discloses a side seam connecting an edge portion **12** of the first side panel **11** to an edge portion of the second panel **19**, the first side panel offset with respect to the second side panel (Han Figures 8-9) for the benefit of providing a seam where the edge of the garment are covered by the fold and provide a garment, which is aesthetically pleasing because the seam does not extend outwardly from the garment (Han page 8, lines 1-3). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the seam of Strohbeen to have offset panels and a fold for the benefits disclosed in Han.

As to claim 14, Strohbeen/Han discloses the panels are connected on their inner surfaces and a first seam (primary bond) is sewn, thus connecting an inner surface of the first side panel to an inner surface of the second side panel (Han page 8, lines 15-24; and Figure 9 where inner surfaces (sueded side) of panels are connected).

As to claim 17, Strohbeen discloses a disposable garment **10** comprising:

a front waist region, back waist region, and a crotch region extending between the waist regions (Figure 1),

a first side panel **11** extending from the front waist region;

a second side panel **12** extending from the back waist region;

Strohbeen does not disclose a concealed side seam connecting an edge portion of the first side panel to an edge portion of the second side panel. Strohbeen discloses it is desirable to create a disposable garment having the appearance of underwear (col. 2, lines 31-34). For this reason, Strohbeen created a narrower or discrete exterior seam. However, the seam of Strohbeen extends outwardly from the garment and is visible (Figures 1 and 2). Han discloses a side seam connecting an edge portion **12** of the first side panel **11** to an edge portion of the second panel **19**, the first side panel offset with respect to the second side panel (Han Figures 8-9) for the benefit of providing a seam where the edge of the garment are covered by the fold and provide a garment, which is aesthetically pleasing because the seam is concealed and does not extend outwardly from the garment (Han page 8, lines 1-3). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the seam of Strohbeen to have offset panels and a fold to provide a concealed seam for the benefits disclosed in Han.

As to claim 34, Strohbeen/Han discloses the secondary bond, connects an outer surface of the second panel to the inner surface of the first side panel (Han, Figure 10).

As to claims 35 and 41, Strohbeen /Han discloses the width of the fold (which corresponds to the width of the seam) is less than about 30 mm (Han page 8, lines 8-14).

As to claims 36 and 42, /Han discloses the width of the fold (which corresponds to the width of the seam) is about 5mm, which is included in the range of about 2mm to about 8mm (Han page 8, lines 8-14).

As to claims 37 and 39, Strohbeen/Han discloses the bonds have a width of 1/16-3/16" (1.58 - 4.76mm), which is included in the range of less than about 30 mm (Strohbeen col. 6, lines 25-29).

As to claims 38 and 40, Strohbeen/Han discloses the bonds have a width of 1/16-3/16" (1.58 - 4.76mm), which is included in the range of about 2mm to about 8mm (Strohbeen col. 6, lines 25-29).

As to claim 43, Strohbeen/Han discloses an inner surface of an edge portion of the front side panel is bonded to an outer surface of the back side panel (Han, Figure 10).

As to claim 44, Strohbeen /Han discloses the width of the fold (which corresponds to the width of the seam) is less than about 30 mm (Han page 8, lines 8-14).

As to claim 45, Strohbeen/Han discloses the width of the fold(which corresponds to the width of the seam) is about 5mm, which is included in the range of about 2mm to about 8mm (Han page 8, lines 8-14).

As to claim 46, Strohbeen/Han discloses the concealed side seam comprises a primary bond and a secondary bond (Han Figure 9, elements 22' and 24', respectively).

As to claim 47, Strohbeen/Han discloses the primary bond connects an inner surface of the first side panel to an inner surface of the second side panel (Han, Figure 10).

As to claim 48, Strohbeen/Han discloses the secondary bond, connects an outer surface of the second panel to the inner surface of the first side panel (Han, Figure 10).

As to claims 49 and 51, Strohbeen/Han discloses the bonds have a width of 1/16-3/16" (1.58 - 4.76mm), which is included in the range of less than about 30 mm (Strohbeen col. 6, lines 25-29).

As to claims 50 and 52, Strohbeen/Han discloses the bonds have a width of 1/16-3/16" (1.58 - 4.76mm), which is included in the range of about 2mm to about 8mm (Strohbeen col. 6, lines 25-29).

Conclusion

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Kling et al. USPN 5855574 is cited to show concealed side seams in a disposable article. Kling et al. USPN 6213991 is cited to show a disposable garment having an offset portion on the side seam.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jacqueline F Stephens whose telephone number is (703) 308-8320. The examiner can normally be reached on Monday-Friday 9:00-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Calvert can be reached on (703) 305-1025. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Jacqueline F Stephens
Examiner
Art Unit 3761

A handwritten signature in black ink, consisting of a series of loops and a final flourish, positioned to the right of the printed name.

February 9, 2004